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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/024,050   | 12/21/2001  | David Carlton Moore  | 088305-0144         | 5341             |
| 22428  | 7590        | 09/22/2005           | EXAMINER            |                  |
| FOLEY AND LARDNER<br>SUITE 500<br>3000 K STREET NW<br>WASHINGTON, DC 20007 |             |                      | TRAN, QUOC A        |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2176                |                  |

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

10/024,050

Applicant(s)

MOORE, DAVID CARLTON

Examiner

Quoc A. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is responsive to Amendment: filed July 12, 2005.
2. Claims 1-4 and 6-28 are pending. Applicant has amended claims 1, 6, 7, 13, 19, 24 and cancelled claim 5. Claims 1, 8, 13, 19, 24 and 25 are independent claims.

### ***Response to Argument***

3. Applicant's arguments, filed July 12, 2005, with respect to the rejection(s) of claim(s) 1-4 and 6-28 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

**Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.**

5. Claims 1-12 are rejected under 35 U.S.C. 101, because the claimed invention is directed to non-statutory subject matter. The claims invention set forth non-functional descriptive material but fails to set forth physical structures or materials comprising of hardware or a combination of hardware and software within the technological arts (i.e. a computer) to produce a "useful, concrete and tangible" result. Claims 1-12 the "method" reads on a mental construct/abstract idea or at best a computer program, per se. The language such as "A method of maintaining... A method of designing..." does not clearly define structural elements and are not tangibly embodied on a computer readable medium, which are interpreted as software per se,

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abstract ideas or mental construct and not tangibly embodied on a computer readable medium or hardware.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-4 and 6-27** are rejected under 35 U.S.C. 103(a) as being unpatentable by Naylor et al. US 20010049648A1- filed Feb. 14, 2001 (hereinafter Naylor '648), in view of Goyal et al. US006466917B1 filed Mar. 9, 2000 (hereinafter Goyal '917),

**In regard to independent claim 1, providing an image on said display, (as taught by Naylor '648 at page 2, paragraph [0017], also see Fig. 3), and identifying via an identifier on said display a status of said image (as taught by Naylor '648 at page 2, paragraph [0018], also see Fig. 4), wherein the step of identifying via identifier on said display a status of said image comprises the step of (as taught by Naylor '648 at page 2, paragraph [0018], also see Fig. 4, embedding a link to an identifier (as taught by Naylor '648 at page 2, paragraphs [0018]-[0019], also see Fig. 20 through Fig. 22, provides a link (item 80) so the buyer can download the image immediately, further as illustrating in FIG. 22, (item 86) is an exemplary web page wherein a buyer agrees to the terms of the license and downloads the image, where contract terms are displayed and which require affirmative input from the buyer to accept the terms, such**

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as use period expired 1/14/01 at 2: 50 PM and license agreement and so on), Examiner read the above in the broadest reasonable interpretation to the claim limitation, wherein identifying via identifier on said display a status of said image, embedding a link to an identifier would have been an obvious variant of provides a link (item 80) so the buyer can download the image and require affirmative input from the buyer to accept the terms, such as use period expired 1/14/01 at 2: 50 PM, to a person of ordinary skill in the art at the time the invention was made;

Naylor '648 does not explicitly teach, **said identifier being viewable only during a predetermined time criteria**, however (Goyal '917 at col. 8, lines 30-45, also see Fig. 11, discloses an online auction environment, illustrates a user interface which displays a user identifier (item 354), a verification icon (item 352). The verification icon may expire upon a predetermined period of time and may be removed upon changing personal information by the participant).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified teaching of Naylor '648, wherein an auction house provides an image on said display and identifying via an identifier on said display a status of said image, to include a means of said identifier being viewable only during a predetermined time criteria of Goyal '917. One of ordinary skill would be motivated to perform such a modification provides users a convenient vehicle for verifying the identity of a participant in a transaction facility using a seamlessly integrated, real-time process and for making a verification result readily available to other participants (as taught by Goyal '917 at col. 8, lines 30-45).

**In regard to independent claims 8, 13, 19, 24 and 25** incorporate substantially similar subject matter as cited in claims 1, and are similarly rejected along the same rationale. Examiner

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read the above in the broadest reasonable interpretation to the claim limitation, wherein **automatically expiring after a pre- determined maximum time limit** would have been an obvious variant of the verification icon may expire upon a predetermined period of time, to a person of ordinary skill in the art at the time the invention was made, (as taught by Goyal '917 at col. 8, lines 30-45, also see Fig. 11).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified teaching of Naylor '648, wherein an auction house provides an image on said display and identifying via an identifier on said display a status of said image, to include a means of said identifier being viewable only during a predetermined time criteria of Goyal '917. One of ordinary skill would be motivated to perform such a modification provides users a convenient vehicle for verifying the identity of a participant in a transaction facility using a seamlessly integrated, real-time process and for making a verification result readily available to other participants (as taught by Goyal '917 at col. 8, lines 30-45).

**In regard to dependent claims 2, 3, 6, 9, 11 and 26** incorporate substantially similar subject matter as cited in claims 1, and are similarly rejected along the same rationale.

**In regard to dependent claim 4, wherein said providing an image step comprises loading a web page including said image,** (as taught by Naylor '648 at page 1, paragraph [0014], also see Fig. 1 through Fig. 24).

**In regard to dependent claim 10,** incorporate substantially similar subject matter as cited in claim 4, and is similarly rejected along the same rationale.

**In regard to dependent claim 12** incorporate substantially similar subject matter as cited in claims 1, and are similarly rejected along the same rationale. Examiner read the above in the

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broadest reasonable interpretation to the claim limitation, wherein **the step of embedding link to an identifier are both performed automatically** would have been an obvious variant of provides a link (item 80) so the buyer can download the image immediately, as taught by Naylor '648 at page 2, paragraph [0018]-[0019], also see Fig. 20 through Fig. 22.

**In regard to dependent claim 14**, wherein **the status comprises one of a new image, an alter image, and a current image**, (as taught by Naylor '648 at page 2, paragraph [0019], also see Fig. 20 through Fig. 22).

**In regard to dependent claims 15, 18 and 27**, incorporate substantially similar subject matter as cited in claim 24 above, and are similarly rejected along the same rationale.

**In regard to dependent claim 16**, incorporate substantially similar subject matter as cited in claim 4 above, and is similarly rejected along the same rationale.

**In regard to dependent claim 17**, incorporate substantially similar subject matter as cited in claim 19 above, and is similarly rejected along the same rationale.

**In regard to dependent claim 20**, incorporate substantially similar subject matter as cited in claim 14 above, and is similarly rejected along the same rationale.

**In regard to dependent claim 21**, incorporate substantially similar subject matter as cited in claims 4 and 19 above, and is similarly rejected along the same rationale.

**In regard to dependent claim 22**, incorporate substantially similar subject matter as cited in claims 19 and 24 above, and is similarly rejected along the same rationale.

**In regard to dependent claim 23**, incorporate substantially similar subject matter as cited in claim 12 above, and is similarly rejected along the same rationale.

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8. **Claim 28** is rejected under 35 U.S.C. 103(a) as being unpatentable by Naylor et al. US 20010049648A1 filed Feb. 14, 2001 (hereinafter Naylor '648), in view of Goyal et al. US006466917B1 filed Mar. 9, 2000 (hereinafter Goyal '917), in further view of Matthews, III et al. US006025837A filed 03/29/1996 (hereinafter Matthews '837).

**In regard to dependent claim 28**, Naylor '648 and Goyal '917 does not explicitly teach, **wherein said time criteria is a hit count**, however (as taught by Matthews '837 at col. 11, lines 35-50, i.e. in another embodiment of the invention, if the a program has more than one target resources, then counting hits on each target specification and prioritizing based upon this hit count in collaborating with time-based).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified teaching of Naylor '648, wherein an auction house provides an image on said display and identifying via an identifier on said display a status of said image, to include a means of said identifier being viewable only during a predetermined time criteria of Goyal '917, further to include wherein said time criteria is a hit count of Matthews '837. One of ordinary skill would be motivated to perform such a modification provides users a convenient vehicle for verifying the identity of a participant in a transaction facility using a seamlessly integrated, real-time process and for making a verification result readily available to other participants (as taught by Goyal '917 at col. 8, lines 30-45).



***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quoc A. Tran whose telephone number is (571) 272-4103. The examiner can normally be reached on Monday through Friday from 9 AM to 5 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Herndon R. Heather can be reached on (571) -272-4136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*Quoc A. Tran*  
*Patent Examiner*  
*Technology Center 2176*  
*September 16, 2005*

*William F. Bashore*  
WILLIAM BASHORE  
PRIMARY EXAMINER  
*9/18/2005*